

INITIAL STATEMENT OF REASONS

November 17, 2005

Title 14. Natural Resources

Division 7. California Integrated Waste Management Board

**Chapter 6. Permitting Of Waste Tire Facilities and Waste Tire
Hauler Registration and Tire Manifest**

**Article 8.5 Waste Tire Hauler Registration and Manifesting
Requirements for Used and Waste Tire
Haulers, Used and Waste Tire Generators, and Used
and Waste Tire End-Use Facilities**

§18449 - 18466

SPECIFIC PURPOSE AND NECESSITY OF THE REGULATION

With the passage SB 744 (McCorquodale, 1993) and the subsequent regulations, the California Integrated Waste Management Board (Board) has been regulating the transportation of used and waste tires. Waste Tire Hauler Registration standards were designed to prevent environmental catastrophes and adverse impacts to public health and safety due to improper transportation and storage of used or waste tires. AB 117 (Escutia, 1998) was signed into law requiring the Board to prepare a report to the legislature on the current waste tire program and to make recommendations by June 30, 1999 for needed changes. The Board adopted the final version of the report entitled "California Waste Tire Program Evaluation and Recommendations" at its June 22, 1999 meeting. SB 876 (Escutia, 2000) was passed by the Legislature changing the tire statutes to better serve the regulated community and to protect public health and safety and the environment. Earlier regulatory changes were made as a result of either the passage of SB 876, or recommendations in the AB 117 Report. Many of the changes presented in this package are a result of administering these regulations for the past 9 years. The proposed changes are being made to streamline the existing Waste Tire Manifest System for the benefit of the regulatory community while maintaining the integrity of the system to ensure public health and safety and the environment.

The regulations are being changed to reflect the use of the Comprehensive Trip Log form (CIWMB 203) which is replacing both the manifest form (CIWMB 647) and tire trip log form (CIWMB 648) that are in current regulation. Between July 1, 2005 to December 31, 2005, there

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will be a transitory time period, that all forms may be used; however, after the December 31 timeline, the use of the manifest and tire trip log forms will no longer be allowed. In addition, new regulations have been developed for electronic reporting to the Board in an effort to further assist the regulated community. Therefore, some sections or parts thereof of these regulations, have been added, moved, deleted, defined or re-defined with the implementation of this new form and the electronic reporting process.

Chapter 6

Article 8.5 - The term “Tire Dealers” is deleted because it was unnecessary. Tire dealers are a subset of “Used and Waste Tire Generators” which are included in this section.

§ 18449 (a) – The term “tire dealers” is deleted from this section because they are a subset of “Used and Waste Tire Generators” which are included in this section.

§ 18450(a)(9) – This existing definition is being re-numbered to subsection (a)(11). A new definition of “Comprehensive Trip Log” is being added to this section to incorporate the new form (CIWMB 203) into regulation.

§ 18450 (a)(10) – This existing definition is being re-numbered to subsection (a)(13). A new definition of “Electronic report” is added to describe the electronic reporting process to the CIWMB.

§ 18450 (a)(11) - The existing definition is being re-numbered to subsection (a)(14). A new definition of “EDT Form” is being added to describe the form reference the process that is to be used.

§ 18450 (a)(12) – This existing definition is being re-numbered to subsection (a)(15).

§ 18450 (a)(13) – This existing definition is being re-numbered to subsection (a)(16)

§ 18450 (a)(14) - This existing definition is being re-numbered to subsection (a)(17).

§ 18450 (a)(15) - This existing definition is being re-numbered to section (a)(18) and the term “tire dealers” is deleted from this section because they are a subset of “waste tire generators” which is included in this section.

§ 18450 (a)(16) - This existing definition is being re-numbered to subsection (a)(19).

§ 18450 (a)(17) - This existing definition is being re-numbered to subsection (a)(20).

§ 18450 (a)(18) - This existing definition is being re-numbered to subsection (a)(22).

§ 18450 (a)(19) – This existing definition is being re-numbered to subsection (a)(23). The term “recasing” is deleted because this is not a correct term used in the retread industry.

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§ 18450 (a)(20) - This existing definition is being re-numbered to subsection (a)(24). The term “recasing” is deleted because this is not a correct term used in the retread industry.

§ 18450 (a)(21) - This existing definition is being re-numbered to subsection (a)(25). A new definition of “Place of Business” is being added in this section to further define where tires can be picked up, delivered, or stored at.

§ 18450 (a)(22) - This existing definition is being re-numbered to subsection (a)(26). The term “recasing” is deleted because this is not a correct term used in the retread industry.

§ 18450 (a)(23) - This existing definition is being re-numbered to subsection (a)(27).

§ 18450 (a)(24) - This existing definition is being re-numbered to subsection (a)(28).

§ 18450 (a)(25) - This existing definition is being re-numbered to subsection (a)(30) and the term “tire dealers” is deleted from this section because they are a subset of “Used and Waste Tire Generators.”

§ 18450 (a)(26) - This existing definition is being re-numbered to subsection (a)(31).

§ 18450 (a)(27) - This existing definition is being re-numbered to subsection (a)(32).

§ 18450 (a)(28) - This existing definition is being re-numbered to subsection (a)(33).

§ 18450 (a)(29) - This existing definition is being re-numbered to subsection (a)(34) and language is being added/deleted to introduce new forms to the manifest system. A new definition of “Unregistered Hauler and Comprehensive Trip Log Substitution Form” is added to incorporate this new form (CIWMB 204) into regulation by reference. This form is used to report unregistered waste tire haulers, document when the Comprehensive Trip Log form (CIWMB 203) is not used, and report authorized exempted loads at the end-use facility

§ 18451 (a) – The term “tire dealers” is deleted from this subsection because they are a subset of “waste tire generators”.-

§ 18453.2 (b) - Repetitive language is deleted for clarity and consistency.

§ 18456– Language is added to the title to clarify that the Retreader Self Certification Form is also available from the CIWMB.

§ 18456 (a) – This subsection deletes form CIWMB 180 and replaces it with form CIWMB 173 to correct an error in existing regulation.

§ 18456.2.1 (f) – Language is added to this section to make clear that a retreader whose self-certification is invalidated must use the Comprehensive Trip Log (CIWMB 203) or other forms referenced in the section.

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§ 18459 (a) - Language and punctuation has been added to clarify that the Comprehensive Trip Log (CIWMB 203) is also available and will be provided by the Board at no costs to the waste tire hauler, during the initial registration or renewal process.

§ 18459 (a)(1) – This existing subsection is re-numbered as (a)(3) and new language has been added to incorporate a grace period, until December 31, 2005, for using existing Manifest and Tire Trip Log Forms at which time haulers will be required to use the new Comprehensive Trip Log form.

§ 18459 (a)(2) - Language is added to allow the use and submission of electronic reports, in lieu of the required CIWMB forms, once the business form has been approved and to establish a time line for reporting this information.

§ 18459 (b) – The Comprehensive Trip Log form is added to this section for consistency in the use of forms and other information is moved for clarity.

§ 18459 (c)(2) – The term “used” is added for clarity and consistency.

§ 18459.1 (a) - The term “tire dealer/” is deleted from this section because it is a subset of “waste tire generators” which is included in this section.

§ 18459.1 (e) - The term “tire dealer/” is deleted from this section because it is a subset of “waste tire generators” which is included in this section.

§ 18459.1.2 - Language is added in the title for clarity and consistency in this new section regarding the electronic data transfer (EDT) and web-based data entry requirements.

§ 18459.1.2 (a) - Language is added in this new section to establish criteria for businesses to use the Electronic Data Transfer and Web-Based Data Entry in lieu of paper form submittal. It details the application process, the company must be in good standing with the Board, they must have sufficient technical competency to process and transmit the required information electronically, and they may use their own forms once approved by the Board.

§ 18459.1.2 (b) - Language is added in this new section to allow for the termination by the Board for electronic data transfer or web-based data entry for businesses based upon falsification of information provided pursuant to §18459.1.2. (a) or (c).

§ 18459.1.2 (c) - Language is added in this new section which establishes grounds for termination of electronic data transfer and web-based data entry based upon falsification, misrepresentation, or omission of a fact to the Board.

§ 18459.2.1 - Language is being added/deleted for clarity and consistency to the title and subsection so as to include all manifest types of forms and how they are to be submitted to the Board.

§ 18459.2.1 (a)(1)- A portion of the existing subsection is re-numbered as subsection (a)(2) and language is being added/deleted to allow the individual a choice to use the existing manifest

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form and the requirements of such a form. The term “tire dealer” is deleted from this section because it is a subset of “waste tire generators” which is included in this section.

§ 18459.2.1 (a)(2)- This existing section is being re-numbered as subsection (a)(3) and language is added/deleted to allow the individual a choice to use the existing tire trip log form and the respective requirements of such a form.

§ 18459.2.1 (a)(3) - Language is added for clarity and consistency to ensure that the manifest and tire trip log forms are not used after December 31, 2005.

§ 18459.2.1 (b)- This existing subsection is renumbered as subsection (c). New language is added to make clear when the haulers are required to possess the Comprehensive Trip Log and when to submit the form to the Board.

§ 18459.2.1 (c)- This existing subsection is being re-numbered as subsection (d) and the term “recasing” is deleted because this is not a correct term used in the retread industry. The term “tire dealer” is deleted from this section because it is a subset of “waste tire generators” which is included in this section.

§ 18459.2.1 (d) - Language is added/deleted establishing criteria for submitting an electronic business reporting form in lieu of the CIWMB Comprehensive Trip Log, or tire trip log forms.

§ 18459.3 - Language is added/deleted in the title for clarity.

§ 18459.3 (a)- Language is added/deleted in this existing subsection to include the new Comprehensive Trip Log and EDT form in existing retention requirements for completed forms by the waste tire hauler, waste tire generator, and end-use facility. The term “tire dealer” is deleted from this section because it is a subset of “generators” which is included in this section.

§ 18459.3 (a)(1)- Language is added/deleted in this existing subsection to include the new Comprehensive Trip Log in these requirements for retreader invoices and the term “recasing” is deleted because this is not a correct term used in the retread industry. The term “tire dealer” is deleted from this section because it is a subset of “waste tire generators” which is included in this section.

§ 18459.3 (b) - Language is added in this existing subsection to include the new Comprehensive Trip Log and EDT form in existing retention requirements for completed forms by the waste tire hauler, waste tire generator, and end-use facility.

§ 18459.3 (c) – Language is added in this subsection to include the new EDT form and retention requirements for completed forms by the waste tire generator and end-use facility.

§ 18460.1 (a-f) - The terms “tire dealer” is deleted from this section because it is a subset of “waste tire generators” which is included in this section and “Comprehensive Trip Log” is added for consistency and clarity in these subsections as it pertains to Agricultural Use Exemptions.

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§ 18460.1.1(a-g) - The terms “tire dealer” is deleted from this section because it is a subset of “waste tire generators” which is included in this section and “Comprehensive Trip Log” is added for consistency and clarity in these subsections as it pertains to Common Carrier Exemptions.

§ 18460.2(a) – The term “tire dealer” is deleted from this section because it is a subset of “waste tire generators” which is included in this section.

§ 18460.2 (b) - Language is added to include the use of the Comprehensive Trip Log form for the waste tire hauler and further clarify the requirements if a manifest form is still used.

§ 18460.2 (b)(1) – Language is added to allow the waste tire hauler to use electronic reporting and the requirements of such a reporting form, if used.

§ 18460.2 (c-h) - Language is added/deleted for clarity and consistency in these subsections. The term “tire dealer” is deleted from this section because it is a subset of “waste tire generators” which is included in this section and “Comprehensive Trip Log” is added to include this form in the manifesting process for waste tire hauler in these subsections.

§ 18460.2 (i) – Language is added/deleted to further clarify that exempt haulers pursuant to Public Resources Code section 42954 will not be allowed to participate in electronic reporting. Further, the Amnesty Day Event or LEA authorization letter reporting requirements have been moved to §18461 (b)(3).

§ 18460.2.1 (b-e) – The term “tire dealer” is deleted from this section because it is a subset of “waste tire generators” which is included in this section. Further clarifying language is added or changed to reflect comparisons to other sections.

§ 18461 (a) –Language is added/deleted to make it clear that the End-Use Facility must retain a copy of the completed Comprehensive Trip Log, or EDT form, or manifest they receive from the hauler.

§ 18461 (a) (1) - The term “recasing” is deleted for consistency in this subsection as throughout Article 8.5 and applicable subsection numbering is changed reflect the correct citation.

§ 18461 (b) - Language is added/deleted for consistency and clarity.

§ 18461 (b)(1)- Language is added/deleted to instruct the End-Use Facility on what their responsibilities and requirements in completing the Unregistered Hauler & Comprehensive Trip Log Substitution Form (CIWMB 204) when receiving tire loads from tire haulers without manifest forms.

§ 18461 (c)- This subsection is renumbered as subsection (b)(2) and language is added/deleted to instruct the End-Use Facility on what their responsibilities and requirements in completing the CIWMB 204 when receiving tire loads from unregistered tire haulers.

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§ 18461 (b)(3)- Language is added to instruct the End-Use Facility on what their responsibilities and requirements in completing the CIWMB 204 when receiving tire loads of 20 or more tires during an amnesty day event or for a one-time hauler exemption.

§ 18461 (d) - This subsection is renumbered as subsection (c) and language is changed to reflect correct terminology for this subsection.

§ 18462 – Language is deleted in title for consistency and clarity. The term “tire dealer” is deleted because it is a subset of “waste tire generators”.

§ 18462 (a) – The term “tire dealer” is deleted from this section because it is a subset of “waste tire generators” which is included in this section.

§ 18462 (a)(1) – Language is added to clarify that an invoice may be left with the generator of waste or used tires if this receipt is from a certified retreader and this receipt must be retained at the generator’s place of business for three years.

§ 18462 (b) – Language is added/deleted to clarify that the generator of waste or used tires must retain a Comprehensive Trip Log or EDT receipt, or a copy of the manifest form (CIWMB 647) at the generator’s place of business for three years. If the latter is used, a copy of the manifest form must be submitted to the Board within 90 days.

§ 18462 (b)(1) – This subsection was moved to §18462 (a)(1).

§ 18462 (c) – Language is added to clarify that the waste tire generator shall complete the CIWMB 204 form if the waste tire hauler does not leave a Comprehensive Trip Log or EDT receipt, or a copy of the manifest form (CIWMB 647) at the generator’s place of business.

§ 18463 – The term “tire dealer” is deleted from this section because it is a subset of “waste tire generators” which is included in this section..

§ 18463 (d) –Language is added/deleted for purposes of uniformity and clarity of this section. The Comprehensive Trip Log is added to this subsection for consistency in forms.

§ 18464 (a)(1-2) - Punctuation is added/deleted for purposes of clarity of this section.

§ 18464(b) - Language is added to this section on a person’s right to appeal a hearing and requirements set forth to do so.

§ 18466(a) – Language is changed to reflect appropriate references.

Penalty Tables for Chapter 6, Article 8.5, Section 18464

Penalty Table I – Language added in title to reflect who is liable in this penalty table. Language added/deleted inside the table for clarity and consistency and to reflect changes in the manifest system with the use of the Comprehensive Trip Log form and electronic reporting forms.

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Penalty Table II - Punctuation is added/deleted in the title for clarity and consistency. Language is changed in table for clarify the volume of tires in relation to the fine assessed.

Appendix A

Form CIWMB 203 (04/05) “CA Comprehensive Trip Log and Receipts” form – This form is identified in Sections 18450, 18459, 18459.2.1., and 18459.3., as well as other sections of Article 8.5. Information to be entered on this form is consistent with past information requested for on the Manifest form (CIWMB 647) and Tire Trip Log form (CIWMB 648). This information, completed by the hauler, includes: the hauler business name and address; CIWMB decal, license plate, and state of issuance for the hauling unit; hauler Tire Program Identification (TPID) number and phone number; Generator/end-use facility business name and address; Generator/end-use facility TPID and phone number. Additionally, load information such as : pick up or delivery; date of the transaction; type of measurement and load amount is also recorded. The hauler (driver) will sign and date the form and request the operator to initial the appropriate receipt to verify the information as true and correct.

Form CIWMB 204 (03/04) “Unregistered Hauler & Comprehensive Trip Log Substitution Form ” – The use of the **Unregistered Hauler & Comprehensive Trip Log Substitution Form** is described in Sections 18450, 18461, and 18462. This form is to be used by the end-use facility operator when reporting an unregistered waste tire hauler with 10 or more tires, a tire hauler that does not have a manifest form, or a person who has an exemption letter issued by the Local Enforcement Agency. This information includes: the hauler business name, address, and signature; CIWMB decal, license plate, and state of issuance for the hauling unit. Additionally, load information such as : pick up or delivery; date of the transaction; type of measurement and load amount is also recorded. Further, there are check boxes to determine the type of status: unregistered hauler, exempt hauler, or hauler with no manifest form

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD BE AS EFFECTIVE AND LESS BURDENSOME TO PRIVATE PERSONS & ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESS.

DECLARATION FOR SUBSEQUENT STATEMENT OF REASONS

The following response shall be used for the requirement that the above finding be made for each proposed regulatory action.

The Board has determined that:

- No alternatives to the proposed regulatory actions would be as effective and less burdensome to private persons while protecting human health, safety, and the environment,

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- There are no other alternatives to the proposed regulatory actions that would lessen adverse economic impact on small business while protecting human health, safety, and the environment.

Board staff initially considered a Quarterly Summary Report (QSR) which would require all parties (generator, hauler, and end use facility) to submit a quarterly report to the Board on all tire transactions conducted during the previous quarter. Preliminary studies showed that this process, although may show some economic value, would cause a considerable amount of discipline from these parties to store this information and 90 days later retrieve that same information and submit it on a QSR. It was decided that the current Comprehensive Trip Log allowed for a more practical and precise reporting process when the transaction occurred rather than wait until the next QSR was due.

Additionally, the proposed regulations will not add any substantively new regulatory requirements for the waste tire generators, waste tire haulers, and end-use facilities.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

DECLARATION FOR SUBSEQUENT STATEMENT OF REASONS

The following response shall be used for the requirement that for each proposed regulatory action that each study, report, or document relied upon, if any, must be identified.

The Board relied upon the following in proposing the adoption of these proposed regulations:

- Existing statute and regulation.
- Oral input from representatives of the used and waste tire industry, government, and environmental groups.
- Written comments received as a result of informal public review during the developmental stages of these regulations.
- Workshops given by the Board.

NO DUPLICATION OF FEDERAL REGULATIONS

DECLARATION FOR SUBSEQUENT STATEMENT OF REASONS

No duplication or conflict exists between the proposed regulations and federal regulations contained in the Code of Federal Regulations because Federal law or regulations do not contain comparable requirements.